



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

March 14, 2008

REGISTERED MAIL
RB 670 357 507 US

U.S. Army Corps of Engineers
Attn: Michelle Walker, Chief
Regulatory Branch
PO Box 3755
Seattle, WA 98124

REGISTERED MAIL
RB 670 357 515 US

Snow Water, LLC
Post Office Box 21866
Seattle, WA 98111

RE: Ecology Denial for Section 401 Water Quality Certification
U.S. Army Corps of Engineers (Corps) Reference #NWS-2007-41-NO, Snow Water,
L.L.C, Deadwater Slough, Snohomish County, Washington

Dear Sir or Madam:

The Department of Ecology (Ecology) was informed that on May 22, 2007, the Corps issued a Nationwide Permit (NWP) #27 authorizing restoration and enhancement of wetlands through unleveling existing topography and diversification of micro-topography. For this Section 404 NWP to be valid, the applicant must also obtain a Section 401 Water Quality Certification (WQC) and Coastal Zone Management (CZM) Consistency Determination. A Joint Aquatic Resources Permit Application form, initiating the project WQC application process, was received by Ecology January 5, 2007. On December 21, 2007, a withdrawal and reapplication form was submitted by Ducks Unlimited to extend the review period. On February 15, 2008, Ecology and Ducks Unlimited jointly requested to extend the CZM review period.

As noted in previous communications, a final State Environmental Policy Act (SEPA) determination needs to be made in order for Ecology to be able to approve a WQC for this project. To date, a final SEPA determination for this project has not been received by Ecology. Therefore, pursuant to Section 401 of the Clean Water Act (CWA), ch. 90.48 RCW and ch. 173-201A WAC, the Snow Water LLC water quality certification is denied without prejudice.

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Receipt of a denial without prejudice does not preclude Snow Water, LLC from resubmitting a request for 401 Certification at a later date.

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Department of Ecology
Northwest Regional Office
Attn: Lori Enlund
3190 160th Avenue SE
Bellevue, WA 98008

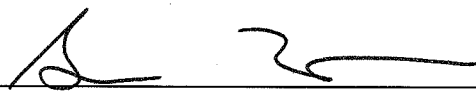
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For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated March 14, 2008 at Bellevue, Washington.



Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

GT:lce:cja

cc: Jonathan Smith, U.S. Army Corps of Engineers
Aaron Foster, Ducks Unlimited
WDFW
YMCA of Snohomish County
Rod Hanna

e-cc: Loree' Randall, Ecology
Penny Keys, Ecology
Paul Anderson, Ecology
Erik Stockdale, Ecology